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SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

EXAMINER

ADDY, THJUAN KNOWLIN

ART UNIT	PAPER NUMBER
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2614

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04/13/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/755,520	Applicant(s) BRUENING ET AL.	
	Examiner THJUAN K. ADDY	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8-16, 18-23, 25, 26 and 28-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-16, 18-23, 25, 26 and 28-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal Brief filed on 02/03/2010, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

2. To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

3. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-5, 8-16, 18-23, 25, 26, and 32-45 are rejected under 35 U.S.C. 101

because the claimed invention is directed to non-statutory subject matter.

5. Applicant's specification does not indicate that the claimed "computer-readable media" is **only** tangible. When nonfunctional descriptive material is recorded on some computer-readable medium (i.e., media), in a computer or on an electromagnetic carrier **signal**, it is not statutory since no requisite functionality is present to satisfy the practical application requirement. Merely claiming nonfunctional descriptive material, stored in a computer-readable medium (i.e., media), in a computer, or on an electromagnetic carrier **signal**, does not make it statutory.

6. Claims 1-5, 8-16, 18-23, 25, 26, and 32-45 should be amended to recite --non-transitory computer-readable media -- so that they would not read on signals.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 8-12, 18-23, 32-38, 43, and 44 are rejected under 35 U.S.C. 102(e) as being anticipated by Bravin et al. (US Patent Application, Pub. No.: US 2006/0026001 A1).
8. In regards to claims 8 and 32, Bravin discloses one or more computer-readable media having computer-executable instructions embodied thereon for performing a method of facilitating communications between an initiator (See Fig. 2 and deaf/hard of hearing party 13) and a desired recipient (See Fig. 2 and hearing party 3) my making use of an intermediary agent ("agent") (See Fig. 2 and interpreter/relay interpreter 21) (See Abstract), said method comprising: receiving a request to initiate said communication from said initiator (See pg. 1-2, paragraph [0009]); providing a profiles database (e.g., database/storage which stores the language in which each relay interpreter is skilled in) that stores a set of attributes (e.g., language skills) associated with one or more of a plurality of agents (for example, each relay interpreter may be skilled in a particular language, and the VRS is enabled to select the relay interpreter that best meets the needs of the subscriber for the particular video call); extracting

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source information from said request; referencing said source information (e.g., desired language of deaf/hard of hearing party 13) against said profiles database to identify one of said plurality of agents to facilitate said communication (See pg. 6, paragraph [0050]); and directing said communication to said identified agent who may then facilitate said call between said initiator and said desired recipient (See pg. 6, paragraph [0050]).

9. In regards to claim 9, Bravin discloses the computer-readable media, wherein receiving said request includes receiving said request through a communications network, said communications network including a voice network, a data network, or video network (See pg. 3, paragraph [0026] and pg. 3, paragraph [0029]).

10. In regards to claim 10, Bravin discloses the computer-readable media, wherein said set of attributes includes the following: a language proficiency (See pg. 6, paragraph [0050]).

11. In regards to claim 11, Bravin discloses the computer-readable media, wherein said source information includes an Internet Protocol (IP) address; an indication of a calling number from which the request originated; and an indicator of a called number to which the request was made (See Fig. 6; Fig. 7; pg. 3, paragraph [0026]; and pg. 5-6, paragraph [0048] - [0049]).

12. In regards to claims 12 and 38, Bravin discloses the computer-readable media, wherein directing said communication to said identified agent includes placing said request in a queue based on said referencing (See pg. 6, paragraph [0050]).

13. In regards to claim 18, Bravin discloses one or more computer-readable media having computer-executable instructions embodied thereon for performing a method for

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routing a communications request to help facilitate a call between a user (See Fig. 2 and deaf/hard of hearing party 13) and a desired recipient (See Fig. 2 and hearing party 3) by making use of an intermediary agent ("agent") (See Fig. 2 and interpreter/relay interpreter 21) received through a teletype (TTY) device or destined to be communicated through a TTY device (See Abstract) comprising: receiving said communications request from said user, wherein said communications request includes a request to ultimately reach said desired recipient (See pg. 1-2, paragraph [0009]); retrieving signaling information (e.g., profile) from said communication request (See pg. 2, paragraph [0010]); receiving profile data (e.g., the language in which the relay interpreter is skilled in) related to a plurality of agents who may respond to said communications request to facilitate communications between said user and said desired recipient (for example, each relay interpreter may be skilled in a particular language, and the VRS is enabled to select the relay interpreter that best meets the needs of the subscriber for the particular video call); based on said signaling information and said profile data, denoting a hierarchy of one or more of said plurality of agents to facilitate said communications request (for example, the "hierarchy" is based on the particular language in which the relay interpreter is skill in... for instance, the deaf/hard of hearing party 13 may require a relay interpreter that is skilled in French, therefore a relay interpreter who is skilled in French, and not Spanish, is selected over the other relay interpreters to handle the particular call) ; and routing said communications request to at least one of said one or more of said plurality of agents in said hierarchy,

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who is able to receive said communications request and facilitate said call (See pg. 6, paragraph [0050]).

14. In regards to claim 19, Bravin discloses the computer-readable media, wherein said communications request is a request received through a telephone network, including a wireless-communications network, to reach a destination address, including an IP address or phone number (See Fig. 6; Fig. 7; pg. 3, paragraph [0026]; and pg. 5-6, paragraph [0048] - [0049]).

15. In regards to claim 20, Bravin discloses the computer-readable media, wherein said signaling information includes packetized machine language messages related to said communications request (See pg. 3, paragraph [0026] – [0027]).

16. In regards to claim 21, Bravin discloses the computer-readable media, wherein said signaling information includes a source identifying a source of said communications request (See pg. 3, paragraph [0026]).

17. In regards to claim 22, Bravin discloses the computer-readable media, wherein said signaling information further includes a target address identifying a dialed number associated with said communications request (See pg. 5-6, paragraph [0048] - [0049]).

18. In regards to claim 23, Bravin discloses the computer-readable media, wherein denoting said hierarchy includes identifying a single best agent to satisfy said communications request (See pg. 6, paragraph [0050]).

19. In regards to claim 33, Bravin discloses the computer-readable media, wherein said request is received by a telephone network or data network, including the Internet (See pg. 3, paragraph [0026]).

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20. In regards to claim 34, Bravin discloses the computer-readable media, wherein monitoring said plurality of agents further includes persistently observing the availability of said plurality of agents (See pg. 6, paragraph [0050]).

21. In regards to claim 35, Bravin discloses the computer-readable media, wherein monitoring said plurality of agents further includes persistently observing a plurality of attributes related to said agents (See pg. 6, paragraph [0050]).

22. In regards to claim 36, Bravin discloses the computer-readable media, wherein extracting source information from said communications request includes extracting signaling information (See pg. 3, paragraph [0026] – [0027]).

23. In regards to claim 37, Bravin discloses the computer-readable media, wherein said signaling information includes signaling System 7 (SS7) information (See pg. 2-3, paragraph [0025] and pg. 3, paragraph [0027]).

24. In regards to claim 43, Bravin discloses the computer-readable media, wherein at least one of said plurality of agents is an electronic solution (See pg. 1, paragraph [0008] and pg. 3, paragraph [0030]).

25. In regards to claim 44, Bravin discloses the computer-readable media, wherein said electronic solution is a voice-speech translator (e.g., interpreter) (See pg. 1, paragraph [0008] and pg. 3, paragraph [0030]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claims 1-5, 25, 26, 28-31, 39-42, 45, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bravin et al. (US Patent Application, Pub. No.: US 2006/0026001 A1), in view of Lu et al. (US 6,611,590).

27. In regards to claims 1, 25, 28, 29, 39, and 41, Bravin discloses one or more computer-readable media having computer-executable instructions embodied thereon for performing a method and system for routing a communication request to help facilitate a call between a user (See Fig. 2 and deaf/hard of hearing party 13) and a desired recipient (See Fig. 2 and hearing party 3) by making use of an intermediary agent ("agent") (See Fig. 2 and interpreter/relay interpreter 21) (See Abstract), the method comprising: receiving said communication request from a user, wherein said communication request includes a request to ultimately reach said desired recipient (See pg. 1-2, paragraph [0009]); retrieving a set of preferences (e.g., profile) associated with said user (See pg. 2. paragraph [0010]); retrieving profile data (e.g., the language in which the relay interpreter is skilled in) related to a plurality of agents who may respond to said communication request (for example, each relay interpreter may be skilled in a particular language, and the VRS is enabled to select the relay interpreter that best meets the needs of the subscriber for the particular video call); selecting a

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specific agent from said plurality of agents based on said set of preferences and said profile data, wherein said specific agent possesses attributes (e.g., language skills) consistent with at least a portion of the set of preferences and profile data; and routing said communications request to said specific agent, who is able to receive said communications request and facilitate said call (See pg. 6, paragraph [0050]).

28. Bravin, however, does not specifically disclose retrieving statistical data related to said plurality of agents; and selecting a specific agent from said plurality of agents based on said statistical data. Lu, however, does disclose retrieving statistical data (e.g., agent having a short queue length) related to said plurality of agents (See Fig. 1 and agent workstation(s) 132); and selecting a specific agent from said plurality of agents based on said statistical data (See col. 8 lines 27-42). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to incorporate these limitations within the method, as a way of servicing a call and establishing a session between a caller and an agent, which is best suited for servicing the call.

29. In regards to claim 2, Bravin discloses the computer-readable media, wherein receiving said communications request includes receiving said requests via a communications network (See Fig. 2 and access network 25) (See pg. 2-3, paragraph [0025]).

30. In regards to claim 3, Bravin discloses the computer-readable media, wherein said communications network is the Internet (See pg. 3, paragraph [0026]).

31. In regards to claim 4, Bravin discloses the computer-readable media, wherein said set of preferences associated with said user includes the following: a language

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preference; and a communications-type preference, wherein said communications-type preference includes a preference to communication via voice, tele-type (TTY) device; or imaging (See pg. 1, paragraph [0002] and pg. 1-2, paragraph [0009]).

32. In regards to claim 5, Bravin discloses the computer-readable media, wherein retrieving profile data includes retrieving data associated with the following attribute: a language proficiency (See pg. 2, paragraph [0010]).

33. In regards to claim 31, Bravin discloses the system, said order of one or more of said agents includes a single agent best equipped (e.g., French speaking agent) to facilitate said communications request (See pg. 6, paragraph [0050]).

34. In regards to claim 26, Bravin discloses the method, wherein said one of a plurality of receiving components includes one or a plurality of call centers (See Fig. 2 and video communications relay service (VRS) center 19).

35. In regards to claim 30, Bravin discloses the system, wherein said signaling information identifies a source and a destination of said communications request (See Fig. 6; Fig. 7; pg. 3, paragraph [0026]; and pg. 5-6, paragraph [0048] - [0049]).

36. In regards to claim 40, Bravin discloses the computer-readable media, wherein matching said initiator to one or more of said agents includes comparing said set of preferences with said profile data and determining similarities between said preferences and said profile data (See pg. 6, paragraph [0050]).

37. In regards to claims 42, 45, and 46, Bravin discloses all of claims 42, 45, and 46 limitations, except the computer-readable media, wherein said statistical data indicates at least one of the following: an agent in said plurality of agents having been idle the

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longest; an agent in said plurality of agents having the shortest queue; and an agent in said plurality of agents having the queue with the smallest reported delay. Lu, however, does disclose wherein said statistical data indicates at least one of the following: an agent in said plurality of agents having been idle the longest; **an agent in said plurality of agents having the shortest queue**; and an agent in said plurality of agents having the queue with the smallest reported delay (See col. 8 lines 27-42).

38. Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bravin et al. (US Patent Application, Pub. No.: US 2006/0026001 A1), in view of Shires (US Patent Application, Pub. No.: US 2002/0085705 A1).

39. In regards to claim 13, Bravin discloses one or more computer-readable media having computer-executable instructions embodied thereon for performing a method for routing a communications request to help facilitate a call between a user (See Fig. 2 and deaf/hard of hearing party 13) and a desired recipient (See Fig. 2 and hearing party 3) by making use of an intermediary agent ("agent") (See Fig. 2 and interpreter/relay interpreter 21) (See Abstract), the method comprising: receiving said communications request from a user, wherein said communications request includes a request to ultimately reach said desired recipient (See pg. 1-2, paragraph [0009]); retrieving a set of preferences (e.g., profile) associated with said user (See pg. 2, paragraph [0010]); retrieving profile data (e.g., the language in which the relay interpreter is skilled in) related to a plurality of agents who may respond to said communications request to facilitate communications between said user and said desired recipient (for example,

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each relay interpreter may be skilled in a particular language, and the VRS is enable to select the relay interpreter that best meets the needs of the subscriber for the particular video call); and routing said communications request to a specific agent, wherein said specific agent possesses attributes consistent with at least a portion of the set of preferences and profile data (See pg. 6, paragraph [0050]). Bravin, however, does not disclose wherein routing said communications request to a specific agent includes identifying said specific agent prior to when said routing requests reach a telephony server, thereby substantially eliminating any delay between receiving said communications request at said telephony server and directing said request to said identified agent. Shires, however, does disclose wherein routing said communications request (e.g., call-back request) to a specific agent (See Fig. 2 and agent station 1-N 160) includes identifying said specific agent prior to when said routing requests reach a telephony server (for example, the agent's identification/ID is received by browser server 150, prior to the call being routed to telephony server 120), thereby substantially eliminating any delay between receiving said communications request at said telephony server and directing said request to said identified agent (See pg. 2, paragraph [0030] and pg. 3, paragraph [0038]). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to incorporate these limitations within the method, as a way of providing automated call-back capability, to an existing call center without introducing any disruption to the system that is currently in operation.

40. In regards to claim 14, Bravin discloses the computer-readable media, wherein said communications request is to reach a destination address, including an IP address

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or phone number (See Fig. 6; Fig. 7; pg. 3, paragraph [0026]; and pg. 5-6, paragraph [0048] - [0049]).

41. In regards to claim 15, Bravin discloses the computer-readable media, wherein said communications request is a request to establish a communications link between at least two parties, wherein a human agent is communicatively disposed between said at least two parties and facilitates persistent communication between said at least two parties (See pg. 1-2, paragraph [0009] and pg. 6, paragraph [0050]).

42. In regards to claim 16, Bravin discloses the computer-readable media, wherein said set of preferences are associated with an origination address of said request, said origination address including a phone number (See Fig. 6; Fig. 7; pg. 3, paragraph [0026]; and pg. 5-6, paragraph [0048] - [0049]).

Response to Arguments

43. Applicant's arguments with respect to claims 1-5, 13-16, 25, 26, 28-31, 39, and 42-46 have been considered but are moot in view of the new ground(s) of rejection.

44. Applicant's arguments filed 01/20/2009 have been fully considered but they are not persuasive.

45. In response to Applicants' argument in regards to claim 8, that Bravin does not disclose "providing a profiles database that stores a set of attributes associated with one or more plurality of agents", and "referencing said source information against said profiles database to identify one of said plurality of agents to facilitate said

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communication”, Examiner respectfully disagrees. Bravin does disclose providing a profiles database (e.g., database of languages in which each relay interpreter is skilled in) that stores a set of attributes (e.g., language skills) associated with **one or more** plurality of agents (See Fig. 2 and interpreter/relay interpreter 21) and referencing said source information (e.g., desired language of deaf/hard of hearing party 13) against said profiles database to identify one of said plurality of agents to facilitate said communication (See pg. 6, paragraph [0050]).

46. In response to Applicants’ argument in regards to claim 18, that Bravin does not disclose "denoting a hierarchy of one or more of said plurality of agents to facilitate said communication request" and "routing said communications request to at least one of said one or more of said plurality of agents in said hierarchy, who is able to receive said communication request and facilitate said call”, Examiner respectfully disagrees. Bravin does disclose denoting a hierarchy (for example, the “hierarchy” is based on the particular language in which the relay interpreter is skilled in... for instance, the deaf/hard of hearing party 13 may require a relay interpreter that is skilled in French, therefore a relay interpreter who is skilled in French, and not Spanish, is selected over the other relay interpreters to handle the particular call) of **one or more** of said plurality of agents to facilitate said communication request and routing said communications request to at least one of said **one or more** of said plurality of agents in said hierarchy, who is able to receive said communication request and facilitate said call (See pg. 6, paragraph [0050]).

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47. In response to Applicants' argument in regards to claim 32, that Bravin does not disclose "monitoring a plurality of agents who may facilitate said communications request by serving as an intermediary" and "based on said monitoring and said source information, directing said communications request to one or more of said plurality of agents", Examiner respectfully disagrees. Bravin does disclose monitoring (for example, "monitoring" may simply be the system maintaining a database/list of a plurality of relay interpreters, and the particular language in which each relay interpreter is skilled in) a plurality of agents who may facilitate said communications request by serving as an intermediary and based on said monitoring and said source information (e.g., desired language of deaf/hard of hearing party 13), directing said communications request to one or more of said plurality of agents (See pg. 6, paragraph [0050]).

Conclusion

48. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Le Grand (US 6,487,290) teaches call routing based on local status evaluation. Ainslie et al. (US 6,480,599) teach a telecommunications system and method for automatic call recognition and distribution.

49. Any inquiry concerning this communication or earlier communications from the examiner should be directed to THJUAN K. ADDY whose telephone number is (571)272-7486. The examiner can normally be reached on Mon-Fri 8:30-5:00pm.

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50. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

51. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thjuan K. Addy/
Primary Examiner, Art Unit 2614

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Ahmad F Matar/

Supervisory Patent Examiner, Art Unit 2614